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EXAMINER

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1 RECORD OF ORAL HEARING
2
3 UNITED STATES PATENT AND TRADEMARK OFFICE
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6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES
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10 *Ex parte* EIJI KAWAI
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13 Appeal 2009-009093
14 Application 09/981,696
15 Technology Center 3600
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18 Oral Hearing Held: February 4, 2010
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21 Before MURRIEL CRAWFORD, ANTON W. FETTING, and
22 JOSEPH A. FISCHETTI, *Administrative Patent Judges*.
23

24 APPEARANCES:

25
26 ON BEHALF OF THE APPELLANT:

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1 The above-entitled matter came on for hearing on Thursday, February
2 4, 2010, commencing at 2:17 p.m., at the U.S. Patent and Trademark Office,
3 600 Dulany Street, Alexandria, Virginia, before Paula Lowery, Notary
4 Public.

5 THE CLERK: Good afternoon. Calendar Number 39, Mr. Yi.

6 JUDGE CRAWFORD: Good afternoon.

7 MR. YI: My name is Peter Yi, last name is spelled Y-I. My registration
8 number is 61,790. I'm the agent of record representing the Appellant in this
9 case.

10 I'd like to go straight into the arguments unless the Board wishes to hear an
11 overview of the invention.

12 JUDGE CRAWFORD: That's fine with us.

13 MR. YI: Thank you. The independent claims recite that when the portable
14 terminal apparatus is at the exit of the customer's facility, there's two steps
15 that occur.

16 One, the electronic guide information is erased from the portable terminal
17 apparatus; and, two, the user's use of the customer's tracking facility is
18 written onto the portable terminal apparatus. Both the erasing and writing
19 steps occurred at the exit of the facility.

20 The Examiner rejected all the claims in this application under Section 103
21 based on two references: Trace and Gershman.

22 Trace discloses that a user can take a hand held portable device into a
23 shopping mall, and once the portable device is within range of the wireless
24 network set up by the shopping mall, the portable device will display an icon
25 that the user can select to use the shopping assistance services.

1 Those services may include a map of the mall, a list of stores that are
2 present, a list of products and services that are available, and the prices for
3 those products and services.

4 Using this portable device, the user and Trace reference can also perform
5 actual transactions, such as buying clothing or whatever they wish to buy at
6 the mall.

7 However, Trace doesn't say anything about the exit of the mall or the stores,
8 and it also doesn't say anything about deleting information.

9 JUDGE CRAWFORD: Doesn't it say that it monitors and updates?

10 MR. YI: Yes, it talks about the ability of the users to receive messages and
11 alerts about sales or what have you, and those can be deleted; but it doesn't
12 say anything about deletion of the shopping assistance information, such as
13 services available to users.

14 The Examiner in this case assumes that when the user walks out of the mall
15 or walks outside of the range of the wireless network, the Examiner assumes
16 that the shopping assistance icon would be deleted from the portable hand-
17 held device.

18 JUDGE FETTING: Wouldn't one of ordinary skill infer that? When they
19 enter -- it was certainly no reason for it to remain when they leave.
20 Certainly cleaning up memory is well known to those of ordinary skill in the
21 art. Wouldn't the user expect the icon to disappear when they leave?

22 MR. YI: That may be so, Your Honor. If I may continue with the second
23 part of the argument, Trace also discloses that when the user performs a
24 financial transaction, such as purchasing products from the mall, the
25 financial transaction information is stored in the device so the user can
26 display all the purchases that they made, like a shopping list almost.

1 However, that can only occur if the user is within range of the wireless
2 network. In order to make the purchase, you have to download the
3 information that shows your purchase.
4 So the potential erasing that you're talking about, Your Honor, of deleting
5 the icon would have been when the user is outside of the wireless network,
6 whereas writing the transaction information, such as history of all the
7 purchases, would occur inside the wireless network.

8 So the erasing of the matter in Trace occurs at two different locations,
9 whereas it claims both the erasing and the writing occurs at the exit -- a
10 single location.

11 The secondary reference Gershman was cited as a teaching of encryption
12 and decryption which Trace doesn't talk about, but it doesn't cure the
13 deficiencies of the primary Trace.

14 JUDGE FETTING: We took the Examiner to be arguing that it's
15 transmitting information almost continuously while he's in there so by
16 coincidence, if nothing else, as he's leaving the store, it would still be
17 transmitting information to it. So it would lead to limitation at least by
18 coincidence, if not by intention.

19 MR. YI: Trace does disclose that there is continuous monitoring of the
20 location of the user as the user is walking through the mall. That way any
21 transaction that occurred, for example, the location information can be piped
22 to it so when a user reports a transaction you'll have a history of where that
23 happened. For example, in which store and which part of the mall.
24 Once the user exits the mall and is outside of the range, as I just said, that
25 continuous monitoring would stop. Also, the writing of any financial
26 transaction information could not occur if the user was outside or at the exit.

1 Again, either the user is outside the range in which case only deleting could
2 happen but not the writing, or the user is inside the range of the wireless
3 network where deleting could not happen but the writing would happen.

4 Whereas, as claimed both the erasing and writing occur at the exit, which is
5 the same location.

6 Do you have any questions?

7 JUDGE FETTING: I don't have any questions.

8 JUDGE CRAWFORD: No, we don't.

9 MR. YI: Thank you.

10 Whereas, the proceedings at 2:24 p.m. were concluded.

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